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Response  
Attorney Docket No. S63.2B-9867-US01

**Remarks**

This Response is in response to the Final Office Action dated May 4, 2006. In the Final Office Action claims 41, 42, 44, and 45 have been allowed. Claims 1-4, 6-15, 30, and 33-40 were rejected under 35 U.S.C. 102(e) as being anticipated by PG PUB 2002/0107560 to Richter. Claims 11-13, 35-37, 39, and 40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Richter in view of U.S. Patent No. 5,591,223 to Lock et al. These rejections are addressed under headings consistent with the headings of the Office Action.

**35 USC § 102**

In the Final Office Action claims 1-4, 6-15, 30, and 33-40 were rejected under 35 U.S.C. 102(e) as being anticipated by PG PUB 2002/0107560 to Richter. Applicant disagrees with this rejection. Claim 1 recites "the frangible temporary strut restraining at least two of the interconnected struts from self-expansion, at least a portion of the stent constructed and arranged to self-expand upon breaking of the at least one frangible temporary strut".

Richter is directed to a stent that has frangible members that break in order to separate the stent into sections. The frangible temporary struts do not restrain struts from self-expansion. As illustrated in FIGS 3-4 of Richter, the frangible struts 4 are disposed longitudinally between stent segments 2. There is no teaching in Richter that these frangible struts restrain self-expansion. The longitudinal placement of the frangible struts 4 between the stent segments suggests that the frangible struts would merely move along with the stent if the stent self-expanded.

Thus, Richter does not teach all the limitations of claim 1 and cannot anticipate claim 1 and those claims dependent thereof.

Independent claim 30 recites "the stent further comprising at least one frangible temporary strut disposed completely between at least two interconnected struts and restraining the interconnected struts from self-expansion, at least a portion of the stent capable of self-expanding upon breaking of the frangible temporary strut". Richter as stated above is directed to a stent that has frangible members that break in order to separate the stent into sections. There is no teaching in Richter that the stent is capable of self-expanding upon breaking of the frangible temporary strut.

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Thus, Richter does not teach all the limitations of claim 30 and cannot anticipate claim 30 and those claims dependent thereof.

Independent claim 38 recites "the permanent struts fully defining at least one opening in the stent, the at least one temporary strut restraining self-expansion of at least one permanent strut about the at least one opening,... at least a portion of the stent constructed and arranged to self-expand upon breaking of the at least one temporary strut". Richter as stated above is directed to a stent that has frangible members that break in order to separate the stent into sections. There is no teaching in Richter that the frangible struts restrain self-expansion of a permanent strut about an opening as defined in claim 38 or that the stent is capable of self-expanding upon breaking of the frangible temporary strut.

Thus, Richter does not teach all the limitations of claim 38 and cannot anticipate claim 38 and those claims dependent thereof.

Applicant respectfully requests that the 102(e) rejection in light of Richter be withdrawn.

### **35 USC § 103**

In the Final Office Action, claims 11-13, 35-37, 39, and 40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Richter in view of U.S. Patent No. 5,591,223 to Lock et al. These claims are dependent upon independent claims 1, 30, and 38. As stated above Richter does not teach the limitations of claims 1, 30, and 38. There is no teaching or suggestion in the combination of Richter and Locke of the limitations of claims 1, 30, and 38 regarding struts restraining self-expansion.

For at least this reason, claims 11-13, 35-37, 39, and 40 are allowable as they claim dependence upon independent claims 1, 30, and 38 which are believed to be in condition for allowance. Applicant respectfully requests that the 103(a) rejection be withdrawn.

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**CONCLUSION**

In view of the foregoing it is believed that the present application, with pending claims 1-15, 30, 33-42, 44, and 45, is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

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